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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,815	03/03/2004	Roopa Basu	12076-0002	1481

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EXAMINER

SUHOL, DMITRY

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/790,815	Applicant(s) BASU ET AL.	
	Examiner Dmitry Suhol	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/18/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carthew '801 in view of Jabbar '319. Carthew discloses perpetual calendar containing most of the claimed elements including, with reference to claims 1 and 6, a base having a display surface divided into three areas (areas occupied by the days of the week, months of the year and calendar days of the month), a first area having an indicia months of the year (area with months of the year as shown in figure 1), a second area having an indicia of days of the week (area with days of the week as shown in figure 1), and a third area having indicia of dates of a month (area with dates of a month as shown in figure 1), the dates of the month arranged in rows (figure 1) wherein an arrangement of the respective areas is mutually unrelated to each other so that at least the location of a day of the week is unrelated spatially to dates of the month (where it is considered that the arrangement of the areas is unrelated to each other since the day of the week, the month and the date are marked through the use of the moveable magnetic rings and not by their positioning relative one another), at least three borders each movably mounted on the base so that each border can be moved to different

locations on the display surface and can remain at a given location where each border forms an opening that allows indicia on the display surface and surrounded by the border to be seen or a means to identify a particular calendar entry of a month, day of the week, and date of the month as required by claim 6 (magnetic rings shown in figures 1-2 and described in the description of figure 2). Borders being magnetically held to the base, as required by claims 2 and 7, are described in the description portion of figure 2 as movable magnetic rings. Days of the week in the second area being aligned horizontally, as required by claim 3, are shown in figure 1. A clock, as required by claims 4 and 9, is shown in figure 1 and described in the description portion of figure 1.

Carthew fails to teach a decorative design indicia associated with each month as required by claims 1 and 6, adjacent dates of the month rows offset from each other as required by claims 1 and 6 and a second area arranged between the first and third areas as required by claims 1 and 6. However, Jabbar discloses a perpetual calendar, like that of Carthew, which teaches that it is known to provide such a calendar with decorative design indicia associated with each month (23, 24, 25 and 26) in order to remind the user of the season of the year that a month is in and aesthetic value. Jabbar further teaches that it is known to position a second area (days of the week) between a first area (month of the year) and a third area (calendar days) in figure 2 for the purpose of aesthetics and teaching units of calendar progression. Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to have manufactured the calendar of Carthew with decorative design indicia associated with each month for the purpose of remind the user of the season of the year that a

month is in and aesthetic value. It would have been further obvious to manufacture the calendar of Carthew with a second area (days of the week) between a first area (month of the year) and a third area (calendar days) for the purpose of aesthetics and teaching units of calendar progression.

Regarding adjacent dates of the month rows being offset from each other, it would have been obvious to one having ordinary skill in the art at the time of the claimed invention to arrange the rows of the dates of the month in an offset fashion since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983). The fact that the content or positioning of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of date display does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter (e.g. adjacent date rows) and the substrate (e.g. calendar) which is required for patentability.

Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moon et al '975. Moon discloses an electronic calendar containing most of the elements of the claims including with reference to claim 6, a base having a display surface divided into three areas (display 22 and figures 4-7), a first area having an indicia months of the

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year (months shown in figures 4-6), a second area having an indicia of days of the week (days of the week shown in figures 4-6), and a third area having indicia of dates of a month (dates of the month shown in figures 4-6), the dates of the month arranged in rows (figure 5), a second area arranged between the first and third areas (figure 5) and a means to identify a particular calendar entry of a month, day of the week, and date of the month as required by claims 6 where the means is a touch screen comprising a touch screen area as required by claim 8 (col. 4, lines 1-8).

Moon fails to disclose indicia of the dates of the month being in rows such that adjacent rows are offset from each other wherein an arrangement of the respective areas is mutually unrelated to each other so that at least the location of a day of the week is unrelated spatially to dates of the month and decorative design indicia associated with each month as required by claim 6. However, it would have been obvious to one having ordinary skill in the art at the time of the claimed invention to arrange the rows of the dates of the month in an offset fashion as well as to include decorative indicia associated with each month since it would only depend on the intended use of the assembly and the desired manner the information is to be displayed. Further, it has been held that when the claimed printed/displayed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983). The fact that the content or positioning of the printed/displayed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of date display does not alter the functional relationship. Mere support by the substrate for the

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printed/displayed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed/displayed matter (e.g. decorative indicia and adjacent row location) and the substrate (e.g. electronic display) which is required for patentability.

Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carthew '801 and Jabbar '319, as stated above, and further in view of Diambra et al '306. Carthew, as modified by Jabbar, discloses all of the claimed features, as stated above, but for a fourth blank area for notation as required by claims 5 and 10. However, Diambra teaches that it is known to provide calendars with an area that may be written upon (chalkboard of figure 1, col. 4, lines 31-33). Therefore it would have been obvious to include an area for notations in the calendar of Carthew, as modified by Jabbar, for the purpose of recording writings, messages, notes or other information thereon.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a small flourish.

JESSICA HARRISON
PRIMARY EXAMINER